IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

LETTERS PATENT APPEAL NO.91 OF 2007
IN
WRIT PETITION NO.7926 OF 2006

Shri.Krishna Namdeo Patil ...Appellant
V/s.
All India Shri. Shivaji Memorial Society & Anr. ...Respondents

Mr.A.M. Joshi for the Appellant.
Mr.V.N. Tayade i/b. Mr.Piyush Shah for the Respondents.

CORAM : J.N. PATEL &
A.A. SAYED, JJ.

DATE : 19TH APRIL, 2007.

P.C. :

1. Heard. The appellant has approached this Court impugning the order dated 19.12.2006 passed by a learned Single Judge of this Court whereby the interim order granted in his favour in the Appeal preferred before the School Tribunal has been stayed.

2. The learned counsel appearing for the appellant submits that by virtue of the interim order passed by the School Tribunal, the appellant was reinstated and that considering the claim of the appellant before the School Tribunal, it deserves to be continued and therefore, it was not proper to interfere with the discretionary order passed by the School Tribunal in favour of the appellant in its jurisdiction

and, therefore, this Appeal deserves to be allowed.

3. It is further submitted that the School Tribunal would take years to decide the Appeal and during the said period, the appellant would be left jobless and, therefore, it will also be inequitable. On the other hand, if he renders services to the institution, that would benefit the students.

4. The learned counsel appearing for the Management submitted that the appellant was appointed on contract basis and is not a permanent employee and, therefore, has no right to continue in service and it is for this reason that the Management was required to challenge the interim order passed by the School Tribunal, Pune. He further submitted that as the interim order re-instating the appellant was not justified in the facts and circumstances of the case, it amounts to grant of substantive reliefs sought by the appellant. It is contended that by the interim order, the School Tribunal ought not to have stayed the order of termination of the appellant whose services have been terminated by the Management by following the procedure and after giving due notice.

5. We have gone through the impugned order. We do not find that the learned Single Judge has committed any error or illegality in setting aside the interim

order for which cogent reasons have been given. Therefore, there is no merit in the Appeal. The same is dismissed. It will be open for the parties to approach the School Tribunal for expeditious disposal of the Appeal.

[J.N. PATEL, J.]

[A.A. SAYED, J.]